

REMARKS

In the Office Action, the Examiner objected to the priority claim; and rejected claims 1-3, 5, 6, 9, 11-13, 15, 16, 19 and 21-24 under 35 U.S.C. §103(a). These objections and rejections are fully traversed below.

Claims 1, 11 and 23 have been amended to further clarify the subject matter regarded as the invention. Claims 1-3, 5, 6, 9, 11-13, 15, 16, 19 and 21-24 remain pending. Reconsideration of the application is respectfully requested based on the following remarks.

Priority

In the Office Action, the Examiner alleges that one or more conditions for receiving benefit of priority may be lacking. Regardless of whether priority is available, Applicants distinguish the claimed invention from the references cited by the Examiner, thereby rendering availability of priority moot.

Rejection of Claims 1-3, 5, 6, 9, 11-13, 15, 16, 19 and 21-24 under 35 USC 103(a)

In the Office Action, the Examiner rejected claims 1-22 under 35 U.S.C. §103(a) as being unpatentable over Nieh et al., "The Design, Implementation and Evaluation of SMART: A Scheduler for Multimedia Applications," Proceedings of the Sixteenth ACM Symposium on Operating Systems Principles, October 1997 (hereafter "Nieh et al.") in view of Homer et al., US Patent Publication 2002/0042730 A1 (hereafter "Homer et al."); and rejected claims 23 and 24 under 35 U.S.C. §103(a) as being unpatentable over Homer et al. in view of Nieh et al. These rejections are fully traversed below. It should be noted, however, that only claims 1-3, 5, 6, 9, 11-13, 15, 16, 19 and 21-24 are pending.

Claim 1 pertains to a method for managing tasks performed on a computer capable of coupling over a network to a network-based media server. According to claim 1, tasks to be performed are received from a single client media player program

that operates on a computer and the tasks involve interaction of the client media player program with a media server over a network. Thereafter, the method activates an operation at the client media player program operating on the computer to respond to each of the tasks, and coordinates performance of the activated operations at the client media player program in accordance with priority levels associated with the different media-based actions of the tasks.

On the other hand, Nieh et al. schedules computation resources for multiple multi-media real-time applications. That is, Nieh et al. is concerned with handing computation loads from the multiple multi-media real-time applications. Consequently, Nieh et al. is concerned with scheduling amongst different applications.

More specifically, Nieh et al. is concerned with real-time applications and “allows the user to prioritize across real-time and conventional computations, and dictate how the processor is to be shared among applications of the same priority.” See abstract. Fundamentally, Nieh et al. is constructed to schedule processor usage amongst a set of applications. At page 3, paragraph 3, Nieh et al. states:

SMART provides two parameters to predictable control processor allocation. These parameters can be used to bias the allocation of resources to provide the best performance for those which are currently more important to the user. The user can specify that applications have different priorities, meaning that the application with the higher priority is favored whenever there is contention for resources. Among applications at the same priority, the user can specify the share of each application, resulting in each application receiving an allocation of resources in proportion to its respective share whenever there is contention for resources.

In contrast, the claimed invention is not scheduling processor resources across a set of applications. Instead, claim 1 is dealing with priorities levels of different media-based actions carried out by a single client media player program.

On page 14 of the Office Action, it is newly asserted that “the applicant’s media player maps to the operating system of Nieh et al. With such a mapping, the applications of Nieh et al. map to the tasks of the present invention.” Applicants respectfully disagree with the asserted mapping.

Claim 1 is concerned with a client application program, not an operating system. For example, claim 1 clearly recites that tasks pertaining to different media-based actions are performed (in a prioritized manner) by a single client media player program. Hence, the “mapping” proposed in the Office Action is not appropriate.

With respect to the claim limitations concerning “user-modifiable priorities”, the Examiner references section 1.1 of Nieh et al., namely page 2, paragraph 3 and page 3, paragraph 4. Neither of these portions of Nieh et al. teach or suggest the user-modifiable priorities recited in claims 1, 11 and 23.

Specifically, as to user modification of priorities, page 2, paragraph 2 of Nieh et al. where merely mentions that “different users may have different preferences, for example, in regard to trading off the speed of a compilation versus the display quality of video....” Additionally, page 3, paragraph 4 of Nieh et al. states:

The user may wish to adjust the proportion of shares between the applications occasionally. A simple graphical interface can be provided to make the adjustment as simple and intuitive as adjusting the volume of a television or the balance of a stereo output.

In contrast, claim 1, recites “coordinating performance of the activated operations at the client media player program in accordance with priority levels associated with the different media-based actions of the tasks, each of the different media-based actions having a different priority level, the priority levels for the different media-based actions being user-modifiable.” Here, the priority levels for the different media-based actions are different and are user modifiable.

Although Nieh et al., at section 3.1 on page 3 does indicate that the SMART scheduling considers “priority” [“*Priority*. The system should not degrade the performance of a high priority application in the presence of a low priority application.”], such priority is a priority of an application. See also, section 4.1 on page 6. In contrast, claim 1 recites that the tasks it prioritizes pertain to one or more different media-based actions performed by a single client application. Furthermore, claim 1 uses “priority levels associated with the different media-based actions of the tasks” that are performed by the single client application. However, at best, Nieh et al. is able to permit users to

prioritize among different applications (Nieh et al., page 3, para. 3)(“The user can specify that applications have different priorities, meaning that the application with the higher priority is favored whenever there is contention for resources.”). Nieh et al.’s support for preferences among different applications is clearly distinct from user-modifiable priority levels for different media-based actions associated with a single client media player program. Therefore, Nieh et al. fails to teach or suggest user-modifiable priorities as recited in claim 1.

Accordingly, for at least the reasons noted above, it is respectfully submitted that claim 1 is patentably distinct from Nieh et al. in view of Homer et al. Homer et al. is not able to cure the serious deficiencies of Nieh et al. noted above. In addition, claim 11 pertains to a computer readable medium that includes computer program code that can operate similar to the method discussed above regarding claim 1. As such, for at least reasons similar to those noted above with respect to claim 1, it is submitted that claim 11 is also patentably distinct from Nieh et al. in view of Homer et al.

Still further, claim 23 pertains to a computer for presenting media to its user. The computer includes a single client media application program operable to enable the user to play, browse, preview, purchase, download and present media items for the benefit of the user. A task manager “manages performance of at least browse, preview, purchase and download operations by assigning user-modifiable priority levels to each of the browse, preview, purchase and download operations, and managing performance of the browse, preview, purchase and download operations in accordance with the assigned user-modifiable priority levels.” Hence, in claim 23, a client media application operates in view of priorities levels assigned to each of the browse, preview, purchase and download operations. Hence, for reasons similar to those noted above, it is submitted that claim 23 is also patentably distinct from Homer et al. in view of Nieh et al.

Based on the foregoing, it is submitted that claims 1, 11 and 23 are patentably distinct from Nieh et al. and Homer et al., individually or in combination. Additional limitations recited in the independent claims or the dependent claims are not further discussed because the limitations discussed above are sufficient to distinguish the

claimed invention from the cited art. Accordingly, it is respectfully requested that the Examiner withdraw the rejection to claims 1-24 under 35 U.S.C. §103(a).

SUMMARY

It is submitted that claims 1-3, 5, 6, 9, 11-13, 15, 16, 19 and 21-24 are patentably distinct from the cited references. Reconsideration of the application and an early Notice of Allowance are earnestly solicited.

If there are any issues remaining which the Examiner believes could be resolved through either a Supplemental Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned attorney at the telephone number listed below.

If it is determined that additional fees are due, the Commissioner is hereby authorized to charge such fees to Deposit Account 504298 (Order No. 101-P271).

Respectfully submitted,

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